

PROB. 12B
(7/93)

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court

for the

DISTRICT OF HAWAII

JAN 24 2007

at 9 o'clock and 45 min.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: JERAL E. SMITH

Case Number: CR 02-00177HG-03

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 11/17/2003

Original Offense: Count 1: Conspiracy to Distribute and Possess With Intent to Distribute in Excess of 50 Grams of Crystal Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, a Class A felony.

Original Sentence: Eighty-seven (87) months imprisonment and five (5) years supervised release with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; and 3) That the defendant provide the Probation Office access to any requested financial information.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/16/2006

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

Jeral E. Smith, as a condition of supervision, shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed four tests per month, as directed by the probation officer, pursuant to 18 U.S.C. § 3583(d).

CAUSE

The subject's term of supervised release commenced on 8/16/2006 in the Central District of California (CD/CA). Our office received notification from the subject's probation officer in the CD/CA that the subject is currently participating in an outpatient

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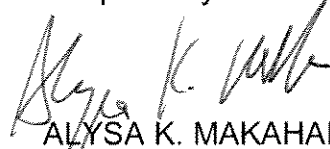
substance abuse treatment program. Anticipating the subject's completion of substance abuse treatment and in light of U.S. vs. Stephens, the supervising probation officer is requesting the above modification to the general condition. The request is based on the subject's serious history of substance abuse which included the daily use of marijuana and "binge" use of crack cocaine. Prior to his incarceration for the instant offense, the subject participated in several drug programs and although currently enrolled in treatment, is considered a high risk for relapse.

The supervising probation officer believes that given the relationship between substance abuse and criminal activity, controlling strategies to detect substance abuse and prompt intervention need to be continued following any successful transition from outpatient treatment. Allowing the probation officer to continue random drug testing after treatment is considered the most reliable method for monitoring relapse.

Our office concurs with the supervising probation officer's recommendation that the Court modify the mandatory drug testing condition (general condition) to authorize and allow random drug testing to continue for the duration of the subject's supervision term. Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

This report also serves to inform the Court that the CD/CA will accept a transfer of jurisdiction. This transfer will expedite any future matters that may require Court intervention. Should the Court concur with the request to transfer jurisdiction in this case, Your Honor's signature is requested on both originals of Probation Form 22, Transfer of Jurisdiction.

Respectfully submitted by,



ALYSA K. MAKAHANALOA
U.S. Probation Officer Assistant

Approved by:



TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

Date: 1/22/2007

THE COURT ORDERS:

☒ Concur with Recommendation (Your Honor's signature is also requested on the two original attached Probation Form 22s for the transfer of jurisdiction.)

☐ Other



HELEN GILLMOR
Chief U.S. District Judge

1.23.07
Date

PROB 49
(3/89)

United States District Court

_____ District _____ Hawaii _____

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

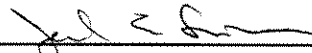
Jeral E. Smith, as a condition of supervision, shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed four tests per month, as directed by the probation officer, pursuant to 18 USC 3583(d).

Witness _____



U.S. Probation Officer

Signed _____



Probationer or Supervised Releasee

10-05-06

Date